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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,495	07/20/2000	Michael Kenneth Brown	19-26	3563
7590 02/12/2009				
Joseph B. Ryan Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560			EXAMINER OSMAN, RAMY M	
			ART UNIT 2457	PAPER NUMBER
			MAIL DATE 02/12/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL K. BROWN and BIING-HWANG JUANG

Application No. 09/620,495
Technology Center 2100

Mailed: February 12, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 29, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on February 14, 2007, in response to the Examiner's Answer mailed December 14, 2006.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed May 7, 2007, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP § 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

1) vacate the Communication mailed May 7, 2007;

2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated February 14, 2007 in accordance with MPEP § 1208, part II.; OR

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/tdl

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